

CHAPTER 1 ADMINISTRATION

493—1.1(13B) Scope. This chapter sets forth the organizational structure of the state public defender system and describes its purpose. See 493—Chapter 7 for definitions of terms used in this chapter.

493—1.2(13B) Function. The position of state public defender is established by Iowa Code chapter 13B. The state public defender is charged with the supervision of the operation of the state public defender system and with the coordination of the provision of legal defense representation of indigent persons in the state of Iowa.

493—1.3(13B) Overall organization and method of operations.

1.3(1) *State public defender system.* The state public defender system is administered by the state public defender. The system consists of four divisions: an administrative division, a trial division, an appellate division and the civil commitment unit.

1.3(2) *Types of cases.* Based on statutes and appropriate case law, the state public defender system provides representation for persons found to be indigent in the following types of cases:

- a. Felonies;
- b. Misdemeanors, if there exists a potential for jail sentence;
- c. Juvenile matters, including delinquency, termination of parental rights, child in need of assistance (CINA), judicial bypass proceedings, and juvenile commitments;
- d. Probation and parole revocation cases; and
- e. Other matters authorized by law.

1.3(3) *State public defender.* The state public defender is appointed by the governor, subject to confirmation by the senate. The state public defender is the chief administrative officer of the state public defender system and in that capacity coordinates the legal representation of indigent clients in criminal, juvenile and related cases in Iowa. The duties of the state public defender include, but are not limited to:

- a. Supervising the operations of the local public defender offices;
- b. Acting as chief legal officer of the state public defender system;
- c. Preparing and submitting the annual budget, personnel and employment policies, and preparing an annual report of the activities of the office;
- d. Determining locations for establishing future local public defender offices;
- e. Coordinating the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, in a proceeding to obtain postconviction relief when ordered to do so by the court, against whom a contempt action is pending, in proceedings under Iowa Code chapter 229A, in juvenile cases under Iowa Code chapter 232, or in probation or parole violations under Iowa Code chapter 908;
- f. Filing with the clerk of court in each county served by a public defender a designation of which local public defender office shall receive notice of appointment of cases;
- g. Contracting with licensed attorneys in the state to provide legal services to indigent persons where there is no local public defender available to provide such services; and
- h. Reviewing claims for indigent defense services and costs and participating in hearings regarding claims.

1.3(4) *Administrative division.* The administrative division carries out all the duties of the state public defender including, but not limited to: budget preparation, processing claims for payment of public defender-related costs and expenses, coordinating hiring and disciplinary matters, maintaining statistics regarding case management and handling of cases, and all other administrative matters.

1.3(5) *Trial division.* The trial division provides legal representation at the trial level to indigent persons charged with adult crimes or in juvenile matters in counties where local public defender services are provided.

The trial division consists of independent local offices and branch offices. Each independent local office is under the direct supervision of a local public defender. A local public defender may supervise a branch office. If so, the branch office may be considered part of the local office.

1.3(6) *Appellate division.* The appellate division is administered by the state appellate defender who reports directly to the state public defender. The appellate division provides legal representation to indigent clients in posttrial matters in the appellate courts of the state of Iowa.

1.3(7) *Civil commitment unit.* The civil commitment unit provides legal representation to indigents in proceedings under Iowa Code chapter 229A.

493—1.4(13B) Indigent defense advisory commission. The indigent defense advisory commission advises and makes recommendations to the legislature and the state public defender regarding the hourly rates paid to court-appointed counsel and per-case fee limitations.

1.4(1) The commission consists of five appointed members. The state public defender shall serve as an ex officio member of the commission and shall serve as the nonvoting chair of the commission.

1.4(2) The commission members are entitled to receive reimbursement for actual expenses incurred in the performance of their duties on the commission.

1.4(3) The commission files a written report with the governor and general assembly every three years. The first report is due on January 1, 2003.

493—1.5(13B) Information. Information concerning the office of the state public defender or the state public defender system may be obtained by contacting the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087; or by telephone (515)242-6158 or fax (515)281-7289. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays. The state public defender's Web site address is www.spd.state.ia.us.

These rules are intended to implement Iowa Code chapter 13B and Iowa Code section 17A.3(1)“a.”

[Filed emergency 10/7/92 after Notice 8/19/92—published 10/28/92, effective 10/7/92]

[Filed emergency 7/1/93 after Notice 4/14/93—published 7/21/93, effective 7/1/93]

[Filed emergency 1/21/97—published 2/12/97, effective 1/21/97]

[Filed 7/11/97, Notice 4/9/97—published 7/30/97, effective 9/3/97]

[Filed 1/31/02, Notice 12/26/01—published 2/20/02, effective 4/1/02]